

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SARAH GRACE WILLIAMS,
THOMAS ERIC BRUNNER-WILLIAMS,
and MARY BETH WILLIAMS,

Case No. 6:16-cv-00890-TC
ORDER

Plaintiffs,

v.

EUGENE SCHOOL DISTRICT 4J, and
LANE EDUCATION SERVICES DISTRICT,

Defendants.

AIKEN, Judge:

Magistrate Judge Thomas M. Coffin issued Findings and Recommendation in the above-captioned case, recommending that defendants' motion to dismiss (doc. 14) should be granted. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b).

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Plaintiffs filed objections to the Findings and Recommendation. Upon de novo review, I find no error.


Plaintiffs' 504 Claims against the Eugene School District are precluded, *Dodd v. Hood River County*, 59 F.3d 852, 861 (9th Cir. 1995), as is the Claim for Fraudulent Misrepresentation and Concealment, *id.*; *Bloomfield v. Weakland*, 123 P.2d 275, 280 (Or. 2005).

Further, the Supreme Court's recent decision in *Fry v. Napoleon Community Schools*, No. 15-497, 2017 WL 685533, at *10-12 (Feb. 22, 2017) leaves intact the Ninth Circuit's "relief-centered" approach to exhaustion of remedies in an Individuals with Disabilities Education Act claim (or claims that should have been plead as such) as applied by Judge Coffin in this case. *See Payne v. Peninsula School District*, 653 F.3d 863, 875-76 (9th Cir. 2011) (overturned on other grounds by *Albino v. Baca*, 747 F.3d 1162, 1169-71 (9th Cir. 2014).

Accordingly, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 23) is ADOPTED in its entirety. The Defendants' motion to dismiss (doc. 14) is GRANTED. Plaintiffs' Section 504 Claim and Claim for Fraudulent Misrepresentation and Concealment against the Eugene School District are dismissed with prejudice. However, plaintiffs are granted leave to amend and refile clarified Section 504 claims and claims for discrimination in violation of ORS 659.850 against Lane Education Service District within 60 days (doc. 23).

IT IS SO ORDERED.

DATED this 10th day of March 2016.


 ANN L. AIKEN
 United States District Judge